

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons which follow. Claims 5-16 have been cancelled without prejudice or disclaimer. Claims 2 and 3 have been amended. Applicant submits that the amendments should be entered, at least because, as discussed further below, the finality of the outstanding Office Action is improper. Further the amendments should not require further search because the amendments to claims 2 and 3 are essentially formal in nature without changing the scope of these claims. No new matter has been added. Claims 1-4 are pending for reconsideration.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4 are now pending in this application.

Improper nature of final rejection

Applicant submits that the finality of the outstanding Office Action (mailed June 6, 2003) is improper and respectfully request that the finality be reconsidered and withdrawn. The finality of the outstanding Office Action is improper because the Examiner has introduced new grounds of rejection, where the new grounds of rejection were not necessitated by an amendment to the claims. The claims were rejected based on the following new grounds of rejection which were not necessitated by amendment as outlined below.

Claims 2 and 3 were rejected: (1) under 35 U.S.C. 102(b) as being anticipated by U.S. patent no. 5,510,979 to Moderi et al., and (2) under 35 U.S.C. 112, second paragraph. With respect to the rejection under 102(b), the amendments to claims 2 and 3 were minor improving the grammar of those claims, but did not change their scope. With respect to the rejection under 35 U.S.C. 112, second paragraph, the portion of claims 2 and 3 cited were not amended in the Amendment filed on March 6, 2003, to which the outstanding Office Action has been made final. Thus, the finality of the outstanding Office Action is premature and applicant respectfully requests that the finality be withdrawn.

Rejections under 35 U.S.C. § 112, second paragraph

Claims 2 and 3 stand rejected under 35 U.S.C. § 112, second paragraph. With respect to these claims, the Office Action stated that the phrase “sales item-registering means, when one of entries of correction alternative sales item data is selected for registering the selected entries of correction alternative sales item data” does not make grammatical sense. Applicant notes that the actual phrase in claims 2 and 3 is “sales item-registering means, when one of the entries of correction alternative sales item data is selected, for registering the selected entry of correction alternative sales item data”, and submit that the phrase is grammatically correct. In the interest of advancing prosecution, however, applicant has amended the phrase.

With respect to claim 3, the Office Action states that it is unclear how “entry of the designated data” effects the displaying of the data “in a different format.” Applicant submits that the clause in claim 3 of “display-controlling means for displaying the entry of the designated sales item data and the entries of correction alternative sales item data on said display device in such a manner that the entry of the designated sales item data is displayed in a different format from the entries of correction alternative sales item data” is clear and definite. Applicants note that claim 3 does not recite that the entry of the designated data effects the displaying of data in a different format, but instead recites that the entry of the designated sales item data is displayed in a different format.

With respect to claims 2 and 3, the Office Action states that applicant has failed to clearly link or associate the corresponding structure from his specification to the function in 35 U.S.C. 112, 6th paragraph recitations noted below. Applicant notes, however, that the Office Action fails to note which 35 U.S.C. 112, 6th paragraph recitations are referenced with respect to this rejection. If Examiner maintains this rejection, Applicant requests the Examiner to note which 35 U.S.C. 112, 6th paragraph recitations are referred to. Applicants further submit that any phrases in the claims invoking 35 U.S.C. 112, 6th paragraph are fully supported in the specification.

For at least the above reasons, applicant respectfully submits that the rejections under 35 U.S.C. § 112, second paragraph have been overcome, and respectfully request that the rejections be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,262,938 to Rapoport et al. (hereafter “Rapoport”). Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,510,979 to Moderi et al. (hereafter “Moderi”). Applicant respectfully traverses these rejections for at least the following reasons.

Independent claim 1 is directed to a POS registering system. The system includes two types of keys, menu keys and at least one selection key. Thus the keys are further defined in the claims as requiring that one sales item being assigned to each of the menu keys, and each of the selection keys being used to select one of the sales items assigned to each of the menu keys.

In the system of claim 1, when a first operation including selecting a menu key is performed for designating a sales item on a menu of the claim 1 system, entries of sales item data of all sales items assigned to the selected menu key are displayed on a display in such a manner that the data of the designated sales item is distinguished from entries of sales item data of correction alternative sales items. The correction alternative sales items are sales items which are assigned to the selected menu key other than the designated sales item. When a second operation is performed for selecting one of the entries of sales item data of the correction alternative sales items displayed on the display device, the selected entry is treated as an entry to be processed. Thus, in the system of claim 1, when an operation including selecting a menu key is performed for designating a sales item, both sales item data for the designated sales item as well as for the correction alternatives sales items are displayed, and the entries of the correction alternatives sales items are distinguished from that of the designated sales item, and then a second operation selects one of the corrective alternative sales item data displayed (i.e., the sales item data which corresponds to sales items which have not been designated) such that the selected entry is treated as an entry to be processed. Applicant submits that the references cited in the rejection of the claims do not suggest these features of independent claim 1.

The Office Action equates Rapoport’s Category window choices with the menu keys of the present claims, and Rapoport’s select item window choices with the selection keys of

the present claims. Rapoport, however, does not disclose a second operation where an item which is listed in the select item window, but has not been designated, is treated as an entry to be processed. Presumably, an item in the select item list of Rapoport can be selected. However, even if this selection can be considered to be designating one of the selected items, only that selected (designated) item is then transferred to the bill window 84, Rapoport does not disclose that one of the non-selected items is transferred by a second operation. Thus, Rapoport does not disclose a second operation that selects one of the corrective alternative sales item data (i.e., the sales item data which corresponds to sales items which have not been designated) displayed such that the selected entry is treated as an entry to be processed.

Independent claims 2 and 3 are also directed to a POS registering system and have some features that are similar to claim 1. For example, the systems of claims 2 and 3 include the menu keys and the at least one selection key in a similar fashion to claim 1. Claims 2 and 3 also include both a correction alternative-searching means and a sales item-registering means. Claim 2 recites the correction alternative-searching means “for searching the table for entries of correction alternative sales item data of sales items which are assigned to the menu key to which the designated sales item is assigned and which have not been designated by the operation,” while claim 3 recites it as “for searching said key table for sales item codes corresponding to sales items which are assigned to the menu key operated and which have not been designated and further searching said PLU table for entries of correction alternative sales item data corresponding to the searched sales item codes.” Thus, the correction alternative-searching means of claims 2 and 3 is for searching for correction alternative sales item data of sales items which have not been designated (claim 2) and for searching for entries of correction alternative sales item data (claim 3). Claims 2 and 3 both recite the sales item-registering means as for registering the selected entry of correction alternative sales item data as an entry to be registered when one of the entries of correction alternative sales item data is selected. Applicant submits that Rapoport fails to disclose either the sales item-registering means or the correction alternative-searching means of claims 2 and 3.

Rapoport does not disclose either a corrective alternative-searching means for searching the table for entries of correction alternative sales item data of sales items which are assigned to the menu key to which the designated sales item is assigned and which have not been designated by the operation (claim 2), or for searching said key table for sales item

codes corresponding to sales items which are assigned to the menu key operated and which have not been designated and further searching said PLU table for entries of correction alternative sales item data corresponding to the searched sales item codes (claim 3). Assume again for the sake of argument that Rapoport's Category window choices correspond to the menu keys of the present claims, Rapoport's select item window corresponds to the selection keys, and selecting an item in the select item list can be considered to be designating an item. Rapoport does not disclose searching for sales item data or sales item codes for the non-selected (non-designated) items. Moreover, because Rapoport does not disclose "registering the selected entry of correction alternative sales item data as an entry to be registered when one of the entries of correction alternative sales item data is selected", Rapoport also does not disclose the sales item-registering means as claimed in claims 2 and 3.

Moderi is similar to Rapoport in that Moderi discloses that a first touch key 112 (such as for "DESSERT") may be touched and then a submenu overlay 118 with multiple labels (such as for "COOKIE", "CAKE", and "PIE") is displayed, and an operator may then select from the submenu overlay (see col. 9, line 58 to col. 10, line 4). Thus, Moderi has the same failings as Rapoport. Namely, with respect to claim 1, Moderi does not disclose that a second operation selects one of corrective alternative sales item data displayed (i.e., the sales item data which corresponds to sales items which have not been designated) such that the selected entry is treated as an entry to be processed, and with respect to claims 2 and 3 does not disclose either the correction alternative-searching means or the sales item-registering means as recited in those claims.

For at least the reasons given above, applicant submits that Rapoport and Moderi do not anticipate any of independent claims 1-3, or claim 4, which depends from claim 3.

Moreover, the Office Action makes several statements regarding the law and facts, which applicant wishes to address. In general, insofar as the Office Action misstates the law and facts, applicant respectfully traverses. Applicant addresses selected specific statements below.

The Office Action states on page 6 that functional limitations using the word "for" are given little weight because they fail to add any structural limitations and are thereby regarded as intended use language. Applicant submits that the Examiner must consider the functional language in the claims, at least with respect to elements recited in means plus function format

(See 35 U.S.C. 112, paragraph 6), and that elements recited in means plus function format include structural limitations.

The Office Action states on page 7, paragraph 10 that applicant's invention is within the machine category of § 101. Applicant agrees insofar as the Office Action is characterizing the presently pending claims.

The Office Action states on pages 7-9, paragraph 11 that the claims continue to be interpreted with their "broadest reasonable interpretation" citing In re Morris. Applicants do not disagree that during examination claims are to be interpreted with their broadest reasonable interpretation, but note that claim terms must also be interpreted in light of the specification.

The Office Action mandates several definitions for terms (only some of these terms being in the present claims), for example on pages 9-12. Insofar as the Office Action is incorporating special definitions not suggested by the claim terms when viewed in light of the specification, these mandated definitions are improper.

The Office Action provides a mean-plus-function analysis under 35 U.S.C. 112, paragraph 6 on pages 12-17. This section of the Office Action is confusing insofar as some of the potential means plus function terms discussed are nowhere to be found in the present claims. For example, pages 12-16, refer to a "means for storing in a computer a list of raw materials", and a "means for populating a plurality of filter lists corresponding with said stored customer application criteria" which are not found in the present claims.

On pages 18 and 19, the Office Action asserts that applicant's claims are replete with conditional statements and specifically refers to conditional expressions with respect to first and second operations in claim 1. The Office Action then asserts that language that suggests or makes optional, but does require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. Applicant submits that the conditional language in the claims is not optional, and thus may not properly be ignored by the Examiner. In a conditional statement, when a first event occurs a corresponding resulting event must occur, and thus is not optional.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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